

THIRTY-FIRST DAY

(Tuesday, March 10, 1959)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

Aikin	Martin
Baker	Moffett
Bradshaw	Moore
Colson	Owen
Crump	Parkhouse
Dies	Phillips
Fly	Ratliff
Fuller	Reagan
Gonzalez	Roberts
Hardeman	Rogers
Hazlewood	Secrest
Herring	Smith
Hudson	Weinert
Kazen	Willis
Krueger	Wood
Lane	

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation as follows:

"O God, our Father, as the rivers run to the ocean, so may our minds turn to Thee now for light on life's true meaning, wisdom for life's problems, strength for life's duties, and courage for life's unknown. In Thee we live, move and have our being through Jesus Christ. Amen.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Message from the House

Hall of the House of Representatives
Austin, Texas,
March 10, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 59, An Act to amend Article 2669 of the Revised Civil Statutes of Texas, 1925, as amended, relating to the investment of the permanent public free school fund by the State Board of Education; repealing all laws in conflict; providing for sev-

erability; and declaring an emergency.

H. B. No. 74, An Act establishing the boundary lines of Sherman County and declaring the area therein to be Sherman County; authorizing the filing of instruments affecting the title to lands within said area in County Clerk's office and thereafter admissible as evidence; directing a survey to be made, and the preparation and filing of field notes; and declaring an emergency.

H. B. No. 139, An Act regarding defendants in felony cases who are not able to pay for a transcript of the evidence; amending Section 5, Chapter 465, Acts of the Fifty-second Legislature, 1951; and declaring an emergency.

H. B. No. 153, An Act requiring veterinarians to report certain contagious and infectious diseases of animals and domestic fowl to the Livestock Sanitary Commission of Texas and to inform the owner or caretaker of livestock or fowl which have died of anthrax or ornithosis to burn such animals or fowl as provided by law; providing that a specimen from animals diagnosed as having died of anthrax be submitted for laboratory examination; providing a penalty for violation; and declaring an emergency.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Reports of Standing Committees

Senator Moffett submitted the following report:

Austin, Texas,
March 10, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Agriculture and Livestock, to whom was referred H. B. No. 105, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass, as amended, and be printed.

MOFFETT, Chairman.

Senator Hardeman submitted the following report:

Austin, Texas,
March 10, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on State Affairs, to whom was referred S. B. No. 235, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HARDEMAN, Chairman.

Senator Willis submitted the following reports:

Austin, Texas,
March 9, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Education, to whom was referred S. B. No. 37, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

WILLIS, Chairman.

Austin, Texas,
March 9, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Education, to whom was referred H. B. No. 30, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

WILLIS, Chairman.

Austin, Texas,
March 9, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Education, to whom was referred S. B. No. 226, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

WILLIS, Chairman.

Austin, Texas,
March 9, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Education, to whom was referred S. B. No. 5, have had the same under consideration, and we are instructed to

report it back to the Senate with the recommendation that it do pass, as amended, and be printed.

WILLIS, Chairman.

Senator Bradshaw submitted the following reports:

Austin, Texas,
March 10, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Insurance, to whom was referred H. B. No. 44, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

BRADSHAW, Chairman.

Austin, Texas,
March 10, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Insurance, to whom was referred S. B. No. 247, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

BRADSHAW, Chairman.

Austin, Texas,
March 10, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Insurance, to whom was referred S. B. No. 90, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass as amended and be printed.

BRADSHAW, Chairman.

Senator Lane submitted the following reports:

Austin, Texas,
March 10, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: We, your Committee on Jurisprudence, to whom was referred S. B. No. 161, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

LANE, Chairman.

Austin, Texas,
March 10, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to whom was referred S. B. No. 140, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

LANE, Chairman.

Senator Aikin submitted the following reports:

Austin, Texas,
March 10, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred H. B. No. 485, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN, Chairman.

Austin, Texas,
March 10, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred H. B. No. 389, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN, Chairman.

Austin, Texas,
March 10, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred H. B. No. 70, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

AIKIN, Chairman.

Senate Resolution 168

Senator Phillips offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate the Student Council group of Stewart Elementary School of Hitchcock, Tex-

as, accompanied by their sponsor, Mrs. Wise and Mrs. Jackie Roush, Mrs. Charline Jacobs, Mrs. Shiro and Mrs. Kellerman; and

Whereas, These students are on an educational tour of the capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this Resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Phillips by unanimous consent presented the students and sponsors to the Members of the Senate.

Senate Resolution 169

Senator Krueger offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate the Civics Class of St. Ludmila's Academy of Shiner, Texas, accompanied by their teacher, Sister Blanche; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this Resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Krueger by unanimous consent presented the students and their teacher to the Members of the Senate.

Senate Resolution 170

Senator Krueger offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate, the Junior and Senior Classes of Round

Top-Carmine High School, accompanied by their sponsors, Mrs. Dony Baker and Mr. Otto Fuchs, Jr.; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this Resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Krueger by unanimous consent presented the students and sponsors to the Members of the Senate.

Senate Resolution 171

Senator Moffett offered the following resolution:

Whereas, We are honored today to have as visitors in the Senate Messrs. R. C. Rancier, Anthony Rancier and W. R. Gaston, all prominent citizens of Wichita Falls, Texas; and

Whereas, We desire to welcome these distinguished guests to the Capitol Building and Capital City; now, therefore, be it

Resolved, That their presence be recognized by the Senate of Texas and that they be extended an official welcome.

The resolution was read and was adopted.

Senate Resolution 172

Senator Moffett offered the following resolution:

Whereas, We are honored today to have as visitors in the Senate Mrs. E. E. Wood, Mrs. Lester Hagerbaumer, Mrs. R. A. Putman, Mrs. Larry Doing, Mr. O. T. Freeman, Mr. Blake Allison, Jr. and Mr. and Mrs. Joe B. McNiel, all prominent citizens of Wichita Falls, Texas; and

Whereas, We desire to welcome these distinguished guests to the Capitol Building and Capital City; now, therefore, be it

Resolved, That their presence be recognized by the Senate of Texas

and that they be extended an official welcome.

The resolution was read and was adopted.

Senate Resolution 173

Senator Aikin offered the following resolution:

Whereas, We are honored today to have as visitors in the Senate Mr. and Mrs. Roy C. Roberts of McKinney, Texas; and

Whereas, We desire to welcome these distinguished visitors to the Capitol Building and Capital City; now, therefore, be it

Resolved, That their presence be recognized by the Senate of Texas and that they be extended the official welcome of the Senate and be extended the privileges of the floor for the day.

AIKIN
ROBERTS

The resolution was read and was adopted.

Senator Aikin by unanimous consent presented Mr. and Mrs. Roberts, the father and mother of Senator Ray Roberts to the Members of the Senate.

Senate Resolution 174

Senator Herring offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate the four first grade classes of Highland Park School in Austin, Travis County, Texas, accompanied by their teachers, Mrs. Armitstead, Mrs. Bitters, Mrs. Feuerbacher and Mrs. Swenson; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this resolution, properly endorsed, bearing the official seal of the Senate, be mailed to their class in recognition of their visit.

The resolution was read and was adopted.

Senator Herring by unanimous con-

sent presented the students and teachers to the Members of the Senate.

Senate Resolution 175

Senator Herring offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate the 5th Grade Class of Dawson Elementary School in Austin, Travis County, Texas, accompanied by their teacher, Miss Burkett; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this resolution, properly endorsed, bearing the official seal of the Senate, be mailed to the class in recognition of their visit.

The resolution was read and was adopted.

Senator Herring by unanimous consent presented the students and teacher to the Members of the Senate.

Senate Resolution 176

Senator Herring offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate the 6th Grade Class of Brentwood Elementary School, Austin, Travis County, Texas, accompanied by their teachers, Mr. A. Paul Wishart and by Mrs. Robert Hill, Mrs. James Fisher and Mrs. Hugh Bagwell; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this resolution, properly endorsed, bearing the official seal of the Senate, be mailed to the class in recognition of their visit.

The resolution was read and was adopted.

Senator Herring by unanimous consent presented the students and teachers to the Members of the Senate.

Senate Resolution 177

Senator Martin offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate the 7th Grade Campfire Girls from Hamilton, Texas, accompanied by their teacher and sponsor, Mr. and Mrs. H. H. Stroud and Mrs. Weatherby; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Martin by unanimous consent presented the students, teachers and sponsors to the Members of the Senate.

Senate Resolution 178

Senator Gonzalez offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate 130 students of Our Lady of the Lake High School of San Antonio, Texas, accompanied by their teacher, Sister Charles Maria; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Gonzalez by unanimous consent presented the students and their teacher to the Members of the Senate.

Senate Bills on First Reading

The following bills were introduced, read first time and referred to the committees indicated:

By Senator Ratliff:

S. B. No. 303, A bill to be entitled "An Act authorizing any incorporated city or town in the State of Texas, including Home-Rule Cities (hereinafter referred to as 'city' or 'cities'), to enter into contracts with a district, authority, or other political subdivision (hereinafter referred to as 'district' or 'districts') created and operating under Sec. 59, Art. XVI, Constitution of Texas, and having sanitary sewer powers, whereby the district agrees to collect, transport, process, dispose, and control, any or all, of wastes and sewage, either or both, for such city and its inhabitants, authorizing any city to enter into contracts with a district for the lease to the district, or the operation by the district, the sanitary sewer system of the city; containing provisions relating to such contracts and to the authorization of the same; enacting other provisions relating to the subject; providing severability clause; and declaring an emergency."

To the Committee on State Affairs.

By Senator Ratliff:

S. B. No. 304, A bill to be entitled "An Act authorizing and providing for the creation and operation of conservation and reclamation districts under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as Sanitation Districts; providing for the governing body of such Districts; prescribing the rights, powers, privileges, and duties of such Districts and governing bodies; providing for the addition of territory and lands to any such Districts; containing other provisions relating to the subject; providing that this Act shall be liberally construed; providing a severability clause; and declaring an emergency."

To the Committee on Water and Conservation.

By Senator Parkhouse:

S. B. No. 305, A bill to be entitled "An Act amending Section 4 of the Acts of 1947, 50th Legislature, page 231, Chapter 135, by adding to Section

4 a provision that any city employee, whether a member of a union or not, may individually or collectively discuss with the governing body of the city or the officer or officers charged with the responsibility of hiring, appointing or dismissing employees of such city the terms and conditions of his or their employment without violating the public policy declared by the Legislature in the above entitled Act; and declaring an emergency."

To the Committee on Labor and Management Relations.

By Senator Lane:

S. B. No. 306, A bill to be entitled "An Act creating an additional District Court in Gregg County, Texas to be known as the District Court for the 147th Judicial District; providing the terms and jurisdiction of said Court; providing for the appointment of a District Judge for said Court; prescribing his powers, duties, term of office and compensation; providing for the appointment of the official court reporter for said Court; prescribing his qualifications, duties and compensation; providing for the appointment, designation and compensation of other officers of the Court; providing all process, writs, recognizances and bonds heretofore issued, made, executed or returnable to existing terms of District Courts in Gregg County are valid and returnable to the first term of the District Court for the 147th Judicial District after this Act takes effect; making other provisions relative to the business and functioning of the District Courts of Gregg County; and declaring an emergency."

To the Committee on Legislative, Congressional and Judicial Districts.

By Senator Lane:

S. B. No. 307, A bill to be entitled "An Act creating a Court of Domestic Relations for Gregg County, Texas; fixing its jurisdiction; conforming the jurisdiction of other Courts thereto; fixing its terms; providing the manner of selection, tenure and compensation of the Judge of said Court; providing the manner of and grounds for the removal of the Judge of said Court; providing for the selection and compensation of a special judge; providing for the appointment of a Court Reporter and such other officers and investigators as might be necessary and providing for their

compensation; providing for appeals to higher courts; providing for the procedure of said Court; providing for the services of certain county and district offices to said Court; containing a saving clause and declaring an emergency."

To the Committee on Legislative, Congressional and Judicial Districts.

By Senator Lane:

S. B. No. 308, A bill to be entitled "An Act to amend Article 4357, Revised Civil Statutes of Texas, 1925, as amended, relating to the system and method of paying accounts in the Department of Comptroller of Public Accounts; providing for an extension of time for making payments on new construction contracts, and to repair and remodeling projects which exceed the sum of Twenty Thousand Dollars (\$20,000), including in either instance furniture and other equipment, architects' and engineering fees, and other related costs; and declaring an emergency."

To the Committee on State Affairs.

By Senator Lane:

S. B. No. 309, A bill to be entitled "An Act amending Section 2 of Article 8306, R.C.S. of 1925 as amended, to clarify the Workmen's Compensation law of this State by adding thereto an exemption for persons commonly known as "newsboys" engaged in the vending, selling or offering for sale or delivering directly to the general public newspapers, magazines or periodicals, or acting as sales agents or distributors of or for any such newspapers, magazines or periodicals from the provisions of the Workmen's Compensation law; providing that this Act shall not affect any rights which have vested or accrued prior to the effective date hereof; providing a saving clause, and declaring an emergency."

To the Committee on Jurisprudence.

By Senator Aikin:

S. B. No. 310, A bill to be entitled "An Act to amend Chapter 125, Acts of the Forty-fifth Legislature, 1937, as amended (codified as Article 6243e, Vernon's Annotated Civil Statutes), by adding thereto a new section to be numbered Section 10C, making participation in Firemen's Relief and Retirement Funds compulsory for firemen who were participating therein

on July 22, 1957; and declaring an emergency."

To the Committee on State Affairs.

By Senator Baker:

S. B. No. 311, A bill to be entitled "An Act providing that printed copies of schedules, classifications and tariffs of rates, fares and charges, and supplements thereto, filed with the Interstate Commerce Commission or the Railroad Commission of Texas, may be received in evidence without certification and shall be presumed to be correct copies of the originals; prescribing conditions; and declaring an emergency."

To the Committee on Jurisprudence.

By Senator Moore:

S. B. No. 312, A bill to be entitled "An Act to amend Section 1 of Chapter 241, Acts of 1935, Forty-fourth Legislature, Page 575, as amended by Section 2 of Chapter 310, Acts of 1937, Forty-fifth Legislature, Page 621, (being commonly referred to as V.A.C.S., Article 6047c-1, Section 1), by amending Sub-section (a) thereof, and by amending the definition of "cigarette" as used in the said statute, and defining the word "cigar" as used in said Act, and distinguishing between "cigarette" and "cigar" as used in said statute; and declaring an emergency."

To the Committee on State Affairs.

By Senator Fly:

S. B. No. 313, A bill to be entitled "An Act amending Sections 2 and 4 of Chapter 237, Acts 1927, Fortieth Legislature, authorizing the governing boards of State educational institutions to make and collect a laboratory charge, "breakage" deposits, and a student activity fees from students enrolled in such institutions; regulating the custody and expenditure of moneys collected through student activity fees; and declaring an emergency."

To the Committee on State Affairs.

By Senator Fly:

S. B. No. 314, A bill to be entitled "An Act to amend subsections (b) and (c) of Section 3, of Article II of the Texas Liquor Control Act (also identified as subparagraphs (b) and (c) of Article 667-3, Vernon's Anno-

tated Penal Code of Texas; and declaring an emergency."

To the Committee on Jurisprudence.

By Senator Fly:

S. B. No. 315, A bill to be entitled "An Act creating the Department of Correction Special Fund; amending S. B. No. 36, Acts of the 46th Legislature, R. S., 1939, as amended by Subsection (1) of Section 27 of H. B. No. 611, Acts of the 47th Legislature, R. S., 1941, Chapter 562, as amended by Section 2 of H. B. No. 78, Acts of the 55th Legislature, R. S., 1957, Chapter 284, so as to authorize expenditures from such fund for such additional purposes as the Legislature may direct; authorizing the transfer of \$595,000 from Disabled Assistance Fund to the Department of Corrections Special Fund; appropriating such moneys to the Department of Corrections for expenditures in accordance with the provisions of Chapter 385, Acts 1957, Fifty-fifth Legislature, R. S.; providing a termination date for such special fund; and declaring an emergency."

To the Committee on Finance.

By Senators Secrest, Colson, Parkhouse and Moffett:

S. B. No. 316, A bill to be entitled "An Act authorizing counties, cities, water control and improvement districts, drainage districts and other political subdivisions to enter contracts with soil conservation districts for the joint acquisition of right-of-ways or joint construction, or maintenance of dams, flood detention structures, canals, drains, levees and other improvements for flood control and drainage as related to flood control, and for making necessary outlets, and maintaining them; providing that such contracts shall contain such terms; provisions and details as the governing bodies of the respective political subdivisions determine to be necessary under all the facts and circumstances; providing that counties, cities, water control and improvement districts, drainage districts and other political subdivisions may contribute funds to soil conservation districts for construction or maintenance of canals, dams, flood detention structures, drains, levees and other improvements for flood control and drainage as related to flood control, and for making the necessary outlets and maintaining them regardless of whether the title to such properties is

vested in the Federal government, the State of Texas, or a soil conservation district, so long as the work to be accomplished is for the mutual benefit of the donor and the agency or political subdivision having title to such property on which the improvements are located; providing further that the counties of this State may expend permanent improvement funds for carrying out the purposes of this Act and in addition thereto such counties may also expend Flood Control Funds levied pursuant to Section 1a, Article VIII, of the Texas Constitution and Article 7048a of Vernon's Civil Statutes for the purposes of this Act; providing that cities, water control and improvement districts, drainage districts and other political subdivision may expend the appropriate funds of the various cities, water control and improvement districts, drainage districts and other political subdivisions for carrying out the purposes of this Act; providing for a repealing clause; providing for a severability clause; and declaring an emergency."

To the Committee on Water and Conservation.

By Senator Phillips:

S. B. No. 317, A bill to be entitled "An Act concerning State prison lands in Brazoria County; and declaring an emergency."

To the Committee on State Affairs.

Senate Concurrent Resolution 26

Senator Herring offered the following resolution:

S. C. R. No. 26, Granting Kerr-McGee Oil Industries, Inc., permission to sue the State of Texas.

Whereas, Kerr-McGee Oil Industries, Inc., is a Delaware corporation with a permit to do business in the State of Texas; and

Whereas, Kerr-McGee Oil Industries, Inc., paid to the State gas gathering taxes in the amount of \$21,817.92 for the months of September, 1951, through December, 1951, said taxes being levied by Section XXIII of House Bill No. 285, Chapter 402, Page 740, Acts of the 52nd Legislature of the State of Texas which became effective September 1, 1951, and which said Act has been declared unconstitutional by the Supreme Court of the United States in the cases styled Michigan-Wisconsin Pipeline Company v. Robert S. Calvert, et al., and

Panhandle Eastern Pipeline Company v. Robert S. Calvert, et al., 347 U. S. 157, 74 S. Ct. 396; and

Whereas, The United States Supreme Court has held that taxes paid under this Act were illegally and unlawfully extracted and that said Act was void and of no force and effect; and

Whereas, There is no provision in the laws of the State of Texas to accurately and definitely determine what amount of taxes, if any, should be returned; and

Whereas, In order to definitely and accurately determine the same it is the policy of this Legislature to let a court of competent jurisdiction pass upon the same; and

Whereas, It is the policy of the Legislature of the State of Texas to give and grant to persons and corporations the right to litigate any valid claim against the State of Texas in a court of competent jurisdiction; now, therefore, be it

Resolved, By the Senate of Texas with the House of Representatives concurring, that Kerr-McGee Oil Industries, Inc., be and it is hereby granted permission to bring suit against the State of Texas in any court of competent jurisdiction in Travis County, Texas, to recover judgment against the State of Texas for all amounts of money heretofore illegally extracted and paid by Kerr-McGee Oil Industries, Inc., under said unconstitutional law and service of citation for the purposes herein granted may be served upon the State of Texas by serving the Attorney General, the State Treasurer and the Comptroller of Public Accounts; and be it further

Resolved, That such suit may be filed within two years from the effective date of this resolution; and be it further

Resolved, That it is understood that the purpose of this resolution is solely to grant permission to bring suit against the State of Texas and no admission of the liability on the part of the State or any fact is made by this resolution, and it is specifically provided that the facts upon which they seek to recover must be proved in court as in other civil cases; and be it further

Resolved, That no interest shall be paid to Kerr-McGee Oil Industries, Inc., in the event a final judgment is obtained by it for recovery of taxes paid under House Bill No. 285, 52nd Legislature; provided if a final judg-

ment is obtained by Kerr-McGee Industries, Inc., all increases in rates obtained on the basis of taxes paid under House Bill No. 285, Regular Session, 52nd Legislature, shall be refunded in full to all those having paid such rate increases.

The facts stated above create an emergency and an imperative public necessity that the Constitutional Rule requiring Resolutions to be read on three several days in each House be suspended, and this Resolution shall take effect from and after its passage.

The resolution was read and was referred to the Committee on Jurisprudence.

Senate Concurrent Resolution 27

Senator Herring offered the following resolution:

S. C. R. No. 27, Granting George A. Fuller Company permission to sue the State of Texas.

Whereas, By contract dated December 19, 1955, George A. Fuller Company, a New Jersey Corporation, licensed to do business in Texas, contracted with the Board of Regents of the University of Texas to construct a Clinical Science Building for the University of Texas Southwestern Medical School, Harry Hines Blvd., Dallas, Dallas County, Texas; and

Whereas, The said George A. Fuller Company alleges that it has substantially completed the Clinical Science Building according to the terms of said contract and made request upon the Board of Regents of the University of Texas for payment of the contract price; and

Whereas, The said George A. Fuller Company alleges that the said Board of Regents of the University of Texas has refused, and still refuses to make final payment of approximately \$90,000.00, alleging among other things that George A. Fuller Company was responsible for the delay in completion of said Building and therefore liable under the contract in the amount of approximately \$20,000.00; and further that other claims, by separate independent prime contractors, for damages in the amount of approximately \$15,000.00 have been made for which George A. Fuller Company might be liable; and

Whereas, George A. Fuller Company alleges that it is in no way re-

sponsible for said delay, that said delay was not to the extent claimed by the Board of Regents of the University of Texas nor are they liable to any of their prime contractors; and

Whereas, George A. Fuller Company alleges that it has expended funds under said contract in excess of the contract price, which they claim is due them under the contract; be it

Resolved, by the Senate of Texas, the House of Representatives concurring, that the said George A. Fuller Company, its successors and assigns, as well as any and all holders of such causes of action, whether corporate, individual, fiduciary or otherwise is and are hereby granted permission to sue the State of Texas and/or the Board of Regents of the University of Texas to determine whether or not, and in what amount any moneys are due and owing to said corporation and to recover judgment against the State of Texas and/or the Board of Regents of the University of Texas, for any such amount and for any and all sums of money which may be due the said George A. Fuller Company under said contract.

It is especially understood that the purpose of this Resolution is to grant permission to the corporation named above, and its successors and assigns as well as any and all holders of such cause of action whether corporate, individual, fiduciary or otherwise, to sue the State of Texas and/or the Board of Regents of the University of Texas, and no admission of liability of the State or the Board of Regents of the University of Texas or of any fact is made in any way by the passage of this Resolution, and it is specifically provided that the facts upon which they seek to recover must be proved in court as in other civil cases.

Service for citation for the purpose herein granted may be had upon the Chairman of the Board of Regents of the University of Texas and upon the Attorney General of the State of Texas.

Venue herein shall lie in any district court of competent jurisdiction.

The facts stated above create an emergency and an imperative public necessity that the Constitutional Rule requiring Resolutions to be read on three several days in each House be suspended; and said Rule is hereby suspended, and this Resolution shall take effect from and after its passage.

The resolution was read and was referred to the Committee on Jurisprudence.

Senate Concurrent Resolution 28

Senator Owen offered the following resolution:

S. C. R. No. 28, Authorizing Board of Directors of Agricultural and Mechanical College to construct and equip certain buildings for Texas Agricultural Experiment Station and Texas Forest Service.

Whereas, Section 18 of Article VII of the Constitution of Texas provides a method of payment for the purpose of constructing, equipping, or acquiring buildings or other permanent improvements for the Texas Agricultural and Mechanical College System; and

Whereas, Section 18, of Article VII, provides that no building or other permanent improvement shall be acquired or constructed thereunder for use by any part of the Texas Agricultural and Mechanical College System, except at and for the use of the general academic institutions of said System, namely the Agricultural and Mechanical College of Texas, Arlington State College, Tarleton State College, and Prairie View A. and M. College, without the prior approval of the Legislature or of such agency as may be authorized by the Legislature to grant such approval; and

Whereas, The Board of Directors of the Agricultural and Mechanical College of Texas is desirous of constructing, equipping and acquiring of buildings and other permanent improvements for the Texas Agricultural Experiment Station and the Texas Forest Service; now, therefore, be it

Resolved, By the Senate of the State of Texas, the House concurring, that the Board of Directors of the Agricultural and Mechanical College of Texas be, and it is hereby given approval in conformity with Section 18, Article VII, Constitution of Texas, from the proceeds of sale of bonds authorized by this section, to construct, equip, acquire buildings and improvements necessary thereto and other permanent improvements for the Texas Agricultural Experiment Station and the Texas Forest Service of the type as follows:

Five Farm Shop and Storage Buildings, 1 Irrigation System, 5 Greenhouses, 5 Residences, 1 Cattle Shelter,

4 Barns, 1 Irrigation Well, 2 Seed Processing and Laboratory Buildings, 2 Laboratories, 4 Storage Buildings, 4 Headquarter and Laboratory Buildings, 1 Cattle Feed Shed, 3 Poultry Buildings, 1 Isolation Building for Poultry Disease Research, and fencing resulting from the above construction, Texas Agricultural Experiment Station; 2 Radio Shops, 1 Residence, 6 Lookout Towers, 1 Radio Mast, 2 Additions to Office Buildings, 1 Equipment Shop, 1 Storage Building, 1 Warehouse and Shop Building, Surfacing of Headquarters Equipment Shop Area, and Fencing Headquarters Area, Texas Forest Service.

The total amount expended for the buildings, equipment and other permanent improvements listed above shall not exceed \$1,050,000. This authorization is effective January 1, 1960.

The resolution was read and was referred to the Committee on State Affairs.

Bill and Resolution Signed

The President signed in the presence of the Senate after the caption had been read, the following enrolled bill and resolution:

S. B. No. 193, A bill to be entitled "An Act fixing the salaries of official shorthand reporters of each judicial district, civil or criminal, and the official shorthand reporters of each county court at law, civil or criminal, in any county having a population of not less than three hundred sixty thousand (360,000) nor more than six hundred twelve thousand (612,000) inhabitants, according to the 1950 Federal census; providing the time, method and manner of payment; repealing all laws or parts of laws in conflict; providing a saving clause; and declaring an emergency."

S. C. R. No. 23, Relating to the acceptance of a statue of Sam Houston.

Senate Resolution 179

Senator Martin offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate, Senior Class from Jonesboro High School, Jonesboro, Texas, accompanied by their teacher, P. T. Lemmons; and

Whereas, These students are on an

educational tour of the Capital Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this Resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Martin by unanimous consent presented the students and Mr. Lemmons to the Members of the Senate.

Message from the House

Hall of the House of Representatives,
Austin, Texas,
March 10, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 190, An Act providing that whenever negligence is alleged as a criminal offense, it shall be necessary that the indictment, information, or complaint state the particular act or omission relied on; providing that this Act shall be cumulative of all the laws of the State; and declaring an emergency.

Respectfully submitted,
DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Message from the Governor

The following message received from the Governor was read and was filed with the Secretary of the Senate:

March 10, 1959.

To the Members of the 56th Legislature:

As the first half of the Regular Session draws to a close, I again respectfully call to your attention the urgent need for retirement of the deficit for the current fiscal year before its payment becomes involved with taxes and expenditures for the next biennium.

In my message to you on January 21 I said:

"Our first and foremost problem is to retire the anticipated deficit by August 31, the end of this fiscal year. I recommend that it be treated and disposed of separately and apart from the needs of the next biennium, because it is a debt already incurred. It is not a recurring item. If the \$65,000,000 deficit for this year is lumped together with the needs for the two years of the next biennium, we would have to levy continuing taxes at a rate one-third higher than necessary. This would spread our present deficit over a three-year period, rather than ending it this year and beginning our next biennium with a clean slate."

In the same message I submitted as emergency legislation three proposals which would retire the deficit by August 31 and respectfully urged that you "enact the three measures I have suggested, or other measures of your own, in time to balance the budget before determining future expenditures and revenues."

For three reasons, I consider this matter of such urgency as to ask again for action on an emergency basis separate and apart from expenditures and new taxes for the next biennium:

First: The anticipated total deficit as of August 31 is now being carried on the Comptroller's books as a debt already incurred. It must be retired regardless of the spending and taxing program for the next biennium. It is clearly contrary to the intention of the "pay-as-you-go" amendment of the Texas Constitution for us to permit a deficit to continue after it is once incurred and within our power to eliminate it.

Second: If the financing of this deficit is delayed so that it must be satisfied after August 31 out of new revenues enacted for the next biennium, it will require any new and permanent tax bill to be almost one-third greater than otherwise necessary for the two year period.

Further, and even more serious, this would mean that a deficit in the State Treasury would be continued for two more years. A tax bill effective after August 31 and large enough to meet the spending of the next two years plus the deficit of the current year probably would not yield enough monthly income to place the Treasury on a cash basis before May 1, 1961. The only way to retire the deficit and balance the State's budget

this year, or within any reasonable time, is to treat the deficit as a separate emergency matter and raise the necessary funds to pay it now, without dependency upon or waiting for a new and permanent tax program for the next biennium.

Third: Time is of the essence with respect to the only tax proposal included in my recommendation for retiring the deficit. I refer to the one year increase in the corporation franchise tax of sixty cents per \$1,000 of capital, and the change of formula for interstate corporations.

May 1 is the date under present law for payment of corporation franchise taxes for the right to operate in Texas for the ensuing year. If you intend for the 40,000 foreign and domestic corporations operating in this State to bear any part of the increase necessary to retire the deficit, the tax increase should be effective before May 1. Thereafter, it will be another year before these taxes become due, and a change in rates during the interim would apply to less than a full year and would entail costly reporting and bookkeeping procedures to the State and the corporations.

I remind you that this is the only major tax payable wholly within the current fiscal year. Any decision to let the date of May 1 slip by without increasing the corporation franchise tax amounts to a decision that the current deficit shall continue into the next biennium.

It would further result in either (1) this amount of tax being paid during the next two years by many people who are far less able to pay than the corporations, or (2) a permanent increase in the corporate franchise tax which will cost more over two years than the one year emergency proposal.

Since Texas has no corporation income tax, the 40,000 corporations of this State can bear the temporary one year increase of sixty cents per \$1,000 and still pay less than if they were operating in the adjoining States or a total of 34 corporate income tax States. This increase would amount to \$14 million for 40,000 corporations, an average of \$350.00 per company.

The new allocation formula would apply only to the approximate 7,000 of these corporations which transact interstate business. It would raise an additional \$15 million, for a total of \$29 million from the franchise tax

proposal contained in House Bill 238.

As pointed out by the Tax Study Commission and the Texas Research League the proposed new formula for interstate corporations is "widely used in other states and has been recommended by a Study Committee of the National Tax Association. . . ." The Supreme Court of the United States recently rendered a decision sustaining the right of the States to tax corporations engaged within their borders in operations primarily intended for interstate business.

Only two States, Texas and Washington, still use the outmoded local receipts formula alone as the basis for assessing the franchise or corporate income tax of interstate corporations. Texas has been losing \$15 million a year by not employing a formula similar to that used by most of the other States, including all of our neighboring States. We should stop this loss in tax revenue before May 1 unless we want to lose another \$15 million during the next year.

This new formula will increase the franchise tax payments of some of the large oil importing and gas exporting companies by a sizable percentage. That is simply because they have not been paying in the past on a just and comparable basis with our 33,000 wholly domestic corporations. Our wholly domestic companies pay on 100% of their taxable capital while some of the interstate corporations (paying only on percentage of receipts in Texas) pay as little as one per cent on their taxable capital. This is unfair not only to the State but to the 33,000 corporations engaged wholly in Texas business.

According to Tax Study Commission estimates, corporations operating in Texas in the year 1956 had a net profit of \$1,600,000,000 on business done in Texas computed under our present allocation formula. Income for 1958 was probably in excess of \$2 billion.

There is no adjoining State and very few in the Nation to which an interstate corporation could move its operations without paying more corporate tax (franchise and income) than in Texas.

Furthermore, all of these 7,000 interstate corporations and our 33,000 wholly domestic corporations (if they earn over \$25 thousand this year) would pay to the Federal Government 52% of every dollar that Texas fails

to collect in franchise taxes under House Bill 238.

This is a fair tax. It is the broadest based tax in Texas insofar as every type of corporate activity is concerned. It is wholly deductible from the Federal income tax, and it is one of the few major Texas taxes which goes directly into the General Revenue Fund.

Unless the Legislature has some other means of raising an equal amount of tax revenue to apply on the deficit in the General Fund during the current fiscal year, I again urge your consideration and enactment of House Bill 238 at the earliest possible date, and by all means prior to the franchise tax paying date of May 1.

Respectfully submitted,
PRICE DANIEL,
Governor.

Presentation of Guests

Senator Bradshaw by unanimous consent presented the students of the Government Class of Decatur Baptist College of Decatur, accompanied by their teacher, Mr. Reynolds, to the Members of the Senate.

Senate Resolution 180

Senator Gonzalez offered the following resolution:

Whereas, We are honored today to have as visitors in the Senate Dave Benavides, John M. Moreno and Ramiro Flores; and

Whereas, We desire to welcome these distinguished visitors to the Capitol Building and Capital City; now, therefore, be it

Resolved, That their presence be recognized by the Senate of Texas and that they be extended the official welcome of the Senate.

The resolution was read and was adopted.

Senator Gonzalez by unanimous consent presented the guests to the Members of the Senate.

Senate Resolution 181

Senator Gonzalez offered the following resolution:

Whereas, We are honored today to have as a visitor in the Senate Mrs. Emanuel M. Kaufman; and

Whereas, We desire to welcome this distinguished visitor to the Capitol

Building and Capital City; now, therefore, be it

Resolved, That her presence be recognized by the Senate of Texas and that she be extended the official welcome of the Senate.

The resolution was read and was adopted.

Senator Gonzalez by unanimous consent presented the guest to the Members of the Senate.

House Bills on First Reading

The following bills received from the House, were read the first time and referred to the committees indicated:

H. B. No. 144, To the Committee on Jurisprudence.

H. B. No. 48, To the Committee on Privileges and Elections.

H. B. No. 120, To the Committee on Education.

H. B. No. 121, To the Committee on State Affairs.

H. B. No. 124, To the Committee on Insurance.

H. B. No. 190, To the Committee on Jurisprudence.

H. B. No. 153, To the Committee on Agriculture and Livestock.

H. B. No. 143, To the Committee on State Affairs.

H. B. No. 106, To the Committee on State Affairs.

H. B. No. 139, To the Committee on Jurisprudence.

H. B. No. 59, To the Committee on State Affairs.

H. B. No. 74, To the Committee on State Affairs.

H. B. No. 29, To the Committee on State Affairs.

Senate Resolution 182

Senator Fly offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate Texas History Class of Cuero Junior High School, Cuero, Texas, accompanied by their teacher, Beulah McDougal; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this Resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Fly by unanimous consent presented the students and their teacher to the Members of the Senate.

Senate Resolution 183

Senator Baker offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate 7th and 8th Grade Social Studies Classes from Smith Junior High School of Houston, Texas, accompanied by their teachers, Mrs. E. Grove, Mrs. J. Reese, Mrs. P. Jones, Mrs. E. Hill and Mrs. R. Gray; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this Resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Baker by unanimous consent presented the students and teachers to the Members of the Senate.

Senate Concurrent Resolution 25 Referred

The President announced that S. C. R. No. 25 introduced on yesterday and held for referral would be referred to the Committee on Rules.

House Bill 70 Ordered Not Printed

On motion of Senator Hazlewood and by unanimous consent H. B. No. 70 was ordered not printed.

Adjournment

On motion of Senator Hardeman the Senate at 11:33 o'clock a.m. adjourned until 10:30 o'clock a.m. tomorrow.

In Memory of

John Hall

Senator Crump offered the following resolution:

(Senate Resolution 167)

Whereas, Our Heavenly Father, in His infinite wisdom, did call from his earthly labors on March 2, 1959, Mr. John Hall of San Saba County; and

Whereas, Mr. Hall, born in San Saba County on May 29, 1914, was a devoted public servant, having been a Scout Master, Church leader, fireman, and businessman and civic leader; and

Whereas, Mr. Hall had a profound influence on the civic, charitable, and religious progress of San Saba County; and

Whereas, His death in the prime of his life recalls this epitaph:

Death grants to none a time of grace
Or respite from his sudden menace
He halts man in the swiftest race
And drags him hence where life is fullest.

Whereas, His passing is mourned not only by his family, but by the entire community and state; and

Whereas, It is the desire of the Senate to pay tribute to the memory of this fine public spirited citizen who contributed so much to his city and State; and

Whereas, Mr. Hall is survived by his wife, Mrs. Catherine L. Hall, and other relatives; now, therefore, be it

Resolved by the Senate of Texas, That we extend our sincere sympathy to the family of John Hall; that a copy of this resolution be sent to each member of his family and that a page in today's Journal be devoted to his memory; and that when the Senate adjourns today, it do so in memory of John Hall.

The resolution was read and was adopted by a rising vote of the Senate.